

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JEFFREY D. JORLING, On Behalf of Himself)
and All Others Similarly Situated)
)
)
Plaintiffs,)
)
) Case No. 1:09-cv-00798-TWP-TAB
vs.)
)
)
ANTHEM, INC. and ANTHEM INSURANCE)
COMPANIES, INC.,)
)
)
Defendants.)

ENTRY ON PLAINTIFFS' OBJECTION TO MAGISTRATE JUDGE'S ORDER

This matter is before the Court on the Plaintiffs' objections to the Magistrate Judge's prior discovery orders (Dkt. 93). "The district court's review of any discovery-related decisions made by the magistrate judge is governed by Rule 72(a) of the Federal Rules of Civil Procedure."

Weeks v. Samsung Heavy Indus. Co., Ltd, 126 F.3d 926, 943 (7th Cir. 1997).

The central issue relates to the Magistrate Judge's denial of Plaintiffs' request for the names of the 25 largest grandfathered groups ("GFGs") from Ohio, Connecticut, and Kentucky. Plaintiffs argue that the Magistrate Judge's ruling was in error because it was premised on a misunderstanding of the Plan of Conversion. That is, the Magistrate Judge allegedly exaggerated "the extent to which the Plan of Conversion dictates reliance on Anthem's books and records in determining the eligibility of a member to receive demutualization distributions." (Dkt. 94 at 4). Under Plaintiffs' theory, Anthem – rather than relying exclusively on its own books and records – allegedly relied on other sources of information and manipulated its own records to divert shares to the GFGs. Plaintiffs argue that the Magistrate Judge's ruling robs Plaintiffs of the opportunity to gather evidence that goes to the heart of one of their core

allegations – “that Defendants allocated too many shares to the GFGs.” (Dkt. 94 at 5). Along similar lines, Plaintiffs object to the Magistrate Judge’s finding that the Plan of Conversion “specifies which headcounts to use.” (Dkt. 94 at 13).

On July 1, 2011, the Court issued a summary judgment decision in *Ormond* (1:05-cv-01908-TWP-TAB)– *Jorling*’s companion case – which pared down the remaining issues for trial in that case. Significantly, the Court rejected Plaintiffs’ claims related to a mis-allocation or an over-allocation of shares to the GFGs (including theories related to headcount inflation/manipulation). In effect, the summary judgment ruling mooted this exact same motion in *Ormond*.

Unlike *Ormond*, however, a Motion for Summary Judgment remains pending in this case and is set for Oral Argument on September 9, 2011, therefore technically, the present motion is not moot. That said, in the Court’s view, the grandfathered groups issues in *Ormond* and *Jorling* are virtually indistinguishable.¹ Without preordaining how the Court will rule on the pending motion for summary judgment in this case, it stands to reason that Plaintiffs’ GFGs argument could possibly meet a similar fate. If the GFGs-related issue is jettisoned from the equation, then Plaintiffs’ request no longer seeks relevant information. Therefore, at this time, Plaintiffs’ Objections to the Magistrate Judge’s Discovery Order (Dkt. 93) are **DENIED**.

If, however, the GFGs issues are still in play following the Court’s summary judgment ruling, the Plaintiffs will be permitted to renew this motion within 30 days of the date of the ruling.

¹This is evidenced by the fact that the parties used the exact same briefs in both *Ormond* and *Jorling*.

SO ORDERED: 07/20/2011

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